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MEMORANDUM

To: Members of the Committee on Government Reform and Oversight
From: Minority Staff
Re: Analysis of Hubbell Master Tape Log
Date: May 4, 1998

On April 30, 1998, Chairman Dan Burton released excerpts of tape recordings of prison conversations between Webster Hubbell and his wife, friends, and attorneys. Mr. Burton released these excerpts in a document called the "Hubbell Master Tape Log."

The minority staff of the Committee on Government Reform and Oversight first obtained the Hubbell Master Tape Log on the evening of Friday, May 1. This staff memorandum is a preliminary analysis, prepared over the weekend of May 2 and 3, of the accuracy of the Hubbell Master Tape Log. It finds numerous alterations and omissions in the Master Log released by Mr. Burton. It appears that the excerpts released by Mr. Burton have been systematically edited to delete references to exculpatory information relating to Mr. Hubbell, the First Lady, and others.

Among the alterations and omissions found in the Hubbell Master Tape Log are the following:

- o The deletion of passages in which Mr. Hubbell and his wife state that the First Lady has done nothing wrong.
- o The deletion of passages that appear to be exculpatory of Mr. Hubbell.
- o The inclusion of allegedly verbatim quotes that do not appear anywhere in the tapes.
- o The inclusion of allegedly verbatim quotes that are not quotes, but paraphrases of quotes.
- o The deletion of passages that provide context to quotes that appear more damaging to Mr. Hubbell than they actually are.

A tape-by-tape summary of some examples of alterations and omissions in the Hubbell Master Tape Log is provided below. There are other similar examples that are not discussed below, and the tapes are still under review.

Tapes 4A-6B, Conversation with Suzy Hubbell (Mar. 25, 1996)

These tapes include a discussion between Mr. Hubbell and his wife concerning whether Mr. Hubbell should file a counterclaim against the Rose law firm, Mr. Hubbell's former law firm. The excerpts of the tapes in the Hubbell Master Tape Log convey the impression that if Mr. Hubbell filed suit against his former firm, this would "open up" the First Lady to allegations and that for this reason Mr. Hubbell has decided to "roll over" to protect the First Lady.

A review of the actual tape, however, reveals that the Hubbell Master Tape Log omits a later portion of the conversation (contained on tape 5B, a continuation of the conversation) that appears to exonerate the First Lady of wrongdoing. In that portion, Mr. Hubbell says that the First Lady "had no idea what was going on. She didn't participate in any of this." [Emphasis added.]

Hubbell Master Tape Log. In relevant part, the Hubbell Master Tape Log quotes tapes 4A and 5B as follows:

SH: No. I want you to. I am the one that bears the brunt of this up here. I am the one that has to explain this to Marcia. She says you are not going to get any public support if you open Hillary up to this...well by public support I know exactly what she means. I'm not stupid.

WH: And I spent Saturday with you saying I would not do that. I will not raise those allegations that might open it up to Hillary. And you know that. I told you that.

SH: Yes. Then I get all this back from Marcia who is ratcheting it up and making it sound like if Webb goes ahead and sues the firm, then any support I have at the White House is gone. I'm hearing the squeeze play.

WH: So I need to roll over one more time...

H: Now Suzy, I say this with love for my friend Bill Kennedy, and I do love him, he's been a good friend, he's one of the most vulnerable people in my counterclaim. Ok?

Actual Tape Transcript. Immediately after Mr. Hubbell's statement about the vulnerability of Bill Kennedy in a counterclaim, the tape contains a passage that appears to be exculpatory of the First Lady. In this passage, Mr. Hubbell states that the First Lady would not be vulnerable in a counterclaim and that "she didn't participate in any of this." This passage is deleted from the Hubbell Master Tape Log. It reads as follows:

Mr. Hubbell: Ok. Hillary's not, Hillary isn't, the only thing is people say why didn't she know what was going on. And I wish she never paid any attention to what was going on in the firm. That's the gospel truth. She just had no idea what was going on. She didn't

participate in any of this.

Mrs. Hubbell: They wouldn't have let her if she tried.

Mr. Hubbell: Of course not. [Emphasis added.]

Tape 35B, Conversation with Terry Collins (June 21, 1996)

Hubbell Master Tape Log. This tape is a conversation with Terry Collins, who is Hubbell's sister. It discusses Mr. Hubbell's decision to delay publication of his book. The Hubbell Master Tape Log implies that Mr. Hubbell wanted to delay the publication of the book because the publisher was pressuring him to reveal damaging information before the election, including information about the First Lady. The Master Log entry states in its entirety:

Webb was not satisfied with his publisher. He was afraid they would want him to "tell stuff he can't do." "After the election the timing is better. Nobody can say I'm betraying confidences after the election."

Webb tells Terry "What it all boils down to is they can't say she (Hillary) did anything."

Actual Tape Transcript. A review of the actual tape shows that the Master Log deletes important passages. For example, between the "stuff he can't do" quote and the "betraying confidences" quote, Mr. Hubbell provides other explanations for delaying publication, including that "more time" will let him "write it the way I want to do it" and that "It'll be much more honest." [Emphasis added.]

The actual tape also contains a statement by Mr. Hubbell that appears to indicate that he is unaware of wrongdoing by the First Lady. This statement is again omitted from the Master Log. The omitted passage states:

Mr. Hubbell: And, you know, I think things are going alright. I know everybody worries about this week, but just, you know, it's depressing only because it's so blown out of proportion. A young kid came up to me yesterday and said, "Well, do you think your friend Hillary is going to be indicted?" And I said, "For what?" And he goes, "Well, well, for all this stuff." And I said, "Well, what did she do?" "Well, well, I don't know." You know, and that's the truth. [Emphasis added.]

Ms. Collins: That's right.

Mr. Hubbell: You know, when it all boils down, they can't say she did anything. You know?

Tape 94A, Conversation with Suzy Hubbell (Sept. 9, 1996)

This tape is a conversation between Mr. and Mrs. Hubbell about individuals who could be approached to provide assistance to the Hubbells. The Hubbell Master Tape Log deletes Mr. Hubbell's statements that the allegations of a pay off are "absolutely not true" and that "there's no truth to it at all." Not only does the Master Log fail to include these exculpatory passages, the Master Log does not even indicate that text has been omitted at the relevant point. A reader of the Master Log would assume that the key passage in the Master Log is a verbatim transcript without deletions.

Hubbell Master Tape Log. The Hubbell Master Tape Log entry states:

S: I don't know who would approach the one name you've got on there I thought that was a real good idea. ... Howard. Would Vernon do that? B (Rapoport)?

H: that's a possibility, yeah. Bermans would be good or Mickey... They're trying to make a big deal (WSJ) about people being bought off by promises. You know people look for the worst in things. I don't do that anymore. [Emphasis added.]

Actual Tape Transcript. In relevant part, the actual tape states:

Mrs. Hubbell: I don't know who would approach the one name you put on there. thought it was a real good idea.

Mr. Hubbell: Well I don't even remember who it was, so --

Mrs. Hubbell: Uh, Howard.

Mr. Hubbell: Yeah.

Mrs. Hubbell: Would Vernon do that?

Mr. Hubbell: That's a possibility, yeah. Okay. All right.

Mrs. Hubbell: Or, would I?

Mr. Hubbell: No. No. think that's -- Bermans would be good.

Mrs. Hubbell: Or Vernon?

Mr. Hubbell: Yeah. Or Mickey, or somebody like that. Obviously they gotta be very careful. I don't know if you follow all of the editorials. They're trying to make -- the *Wall Street Journal* -- you get a -- it's a good thing I get it, because it gives you the worst

possible case. You know, but they're trying to make a big deal that, you know, now everybody's being -- testimony is being bought off by, you know, promises of all kinds of things. So you have to tell everybody to be careful. You know it's not true, you know, it's absolutely not true, there's no truth to it at all, but --

Mrs. Hubbell: Well --

Mr. Hubbell: Yeah, you know, people look for the worst in things. I don't do that anymore. [Emphasis added.]

Tape 100A, Conversation with Suzy Hubbell (Sept. 11, 1996)

This tape is a conversation between Mr. Hubbell and his wife about people to contact concerning job possibilities. The Hubbell Master Tape Log purports to contain a verbatim transcript of the conversation. A review of the actual tape, however, reveals that a statement that appears to be exculpatory of Mr. Hubbell was omitted and text was altered.

Hubbell Master Tape Log. In relevant part, the Hubbell Master Tape Log states:

H: we have to be very careful about this... Editorials are all talking about how all this is designed to keep me and Susan quiet. We have to make sure that it's our personal friends that are helping. [Emphasis added.]

Actual Tape Transcript. In relevant part, the actual tape states:

Mr. Hubbell: I mean, we have to be very careful about this. You know, that it doesn't appear -- You know, you know what the editorials are saying right now.

Mrs. Hubbell: No, I don't really. I haven't read any.

Mr. Hubbell: They're all talking about how, you know, all of this, everything is designed to keep me and Susan [McDougall] quiet. Okay? I'll give you a hypothetical -- is that most of the articles are presupposing that I, my silence is being bought. We know that's not true. You know, we're dead solid broke and getting broker. But, from that supposition, you have to realize that we have to be careful and only talk to friends. And make sure, you know, that it's only our personal friends that are helping. [Emphasis added.]

Tape 196A, Conversation with Suzy Hubbell (Oct. 19, 1996)

Hubbell Master Tape Log. The Hubbell Master Tape Log entry states in its entirety:

John says, Webb I know all the facts and there is absolutely nothing you have to fear

from this. Webb says, "except that I don't want to tell the information."

Webb says, "This could effect our friends . . . and I'm not talking about people who befriended me is a better way to say it." [Emphasis in original.]

Actual Tape Transcript. The Master Log deletes passages that provide needed context. Taken in context, Mr. Hubbell's comments appear to be references to providing information regarding his federal tax return. They do not appear to refer to the broader issue of alleged wrongdoing by the Clintons. Specifically, the actual tape states:

Mr. Hubbell: John says, John says, 'Webb, I know all the facts, [unintelligible]," he said, "there's nothing you have to fear about this." And I said, "except for the fact that I don't want to tell them information." That's why I want to know what's on the return. The information may already be out there.

Mrs. Hubbell: Right

Mr. Hubbell: You know, and, you know, I want have him to talk to you, and the kids, and everything else before we make a final decision. But this is, uh, you know, this could affect our friends -- and I'm not talking about --

Mrs. Hubbell: I know.

Mr. Hubbell: -- yeah, people who befriended me I guess is a better way to say it. And did befriend me, and I provided services to them.

Mrs. Hubbell: I know that. I mean who the hell do they think you're gonna go out and be a client for, Haley Barbour? [Emphasis added.]

Tape 210A, Conversation with John Nields (Oct. 23, 1996)

On October 23, 1996, Mr. Hubbell had a 30-minute telephone conversation with his attorney, John Nields. The Hubbell Master Tape Log quotes extensively from the second half of the conversation (tape 210B). The Master Log omits, however, an important portion of the first half of the conversation, where Mr. Hubbell explains why he is not uncomfortable with who hired him and what work he did for them. Specifically, the omitted passage states:

Mr. Hubbell: I spent most of the night last night kind of trying to go through my thoughts on everybody and anybody I did any work for during the time, you know, and start writing it down, so I can send it to Laura to see if it matches up with everything.

I have to say, and I know this is subject to a much more in-depth conversation, I am not uncomfortable about who hired me and what I did for them. Ok? And I say that, the

more I think about it, the more I, I mean, I've always kind of talked to you in terms of politically what's the worst thing that people could make of this, you know. On the other hand, there's another picture to it and that is, you know, what from my perspective of why people hired me, and what I told them, you know, and what were the arrangements, you know. A lot of, you know, these retainer arrangements, part of it was almost an experiment to see: were you going to need me? Did you think after six months you had gotten your money's worth or did you think it was a bad deal? You know, and if it was a bad deal, then you didn't have to stay with me and if it was a good deal, we can keep it like it was. And if it was a burden on me, then we'd have to revisit that as well, you know. And the other part was if some of the early ones knew that I hopefully by the end of six months, I would have picked up other clients, and it was to some extent helping me set up an office. But a lot of that based on a lot of conversations I had with other lawyers and other consultants on how they had started and how they had done their thing.

So I'm not uncomfortable, Ok? On the other hand, like you said, you know, a total "let's look at every penny that Webb got, you know, where it came from, let's subject everybody who's been ever been kind to Webb, you know, to an investigation," is pretty rough stuff. I mean, it's not, when I say "rough stuff," I'm talking about for them, not for me. I mean, it's rough for me just 'cuz I'm very protective of my friends, you know, in a way that I feel for them. Now the other thing is, the information that's being asked for, it's hard for me to answer where I am, you know? I say that with great love for my wife, but she has no idea, you know, about finances. That's been part of our problem.

Tape 232A, Conversation with John Nields (Oct. 30, 1996)

Hubbell Master Tape Log. This is a tape of a conversation between Mr. Hubbell and his attorney, John Nields. In relevant part, the Master Log states:

N: I very much want you, if this ever should be challenged, to be able to say that this time you looked at the return and compared a list that we'll prepare with the numbers on the return to make goddamn sure it's right. We're going to do this time, what you didn't do last time.

H: Which I should have done last time.

N: There is some chance that the day after election day they will make a move that moots everything. And I don't want to discourage it. [Emphasis in original.]

In discussing this excerpt, Mr. Burton has told the press that these quotes refer to an effort to obtain a Presidential pardon for Mr. Hubbell. [CNN's "Late Edition," 5/3/98]

Actual Tape Transcript. John Nields, Mr. Hubbell's lawyer, refuted Mr. Burton's interpretation over the weekend. He stated that the quotation refers to his hope that Independent Counsel Kenneth Starr might grant Mr. Hubbell partial immunity after the election -- not to a Presidential pardon. [ABC's "This Week," 5/3/98] Tape 286, which is discussed below,

corroborates Mr. Niels's interpretation. It shows that immediately after the election, Hubbell was in fact granted immunity by Mr. Starr.

Tape 232B, Conversation with John Niels (Oct. 30, 1996)

In the excerpt from this tape, the Hubbell Master Tape Log underlines a passage in which Mr. Hubbell allegedly says that "Riady is just not easy to do business with." In fact, Mr. Hubbell makes no such statement in the tape.

Hubbell Master Tape Log. In relevant part, the Hubbell Master Tape Log states:

H: Well, I'm in agreement on the return issue. And just you know, I just want to be able to say but as expeditiously as possible as long as you're comfortable. And John, the Riady is just not easy to do business with me while I'm here which to some extent may be helpful in the long run to explain things. You just can't do business up here. [Emphasis in original.]

Actual Tape Transcript. In relevant part, the actual tape transcript states:

Mr. Hubbell: Well, I'm in agreement on the return issue. And just, you know, I just want to be able to say that we did it right but as expeditiously as possible --

Mr. Niels: I agree.

Mr. Hubbell: -- as long as you're comfortable. And, you know, John, the reality is it's just not easy to do business with me while I'm here, which to some extent may be helpful in the long run to explain things. You just can't do business up here.

Tape 258B, Conversation with Suzy Hubbell (Nov. 7, 1996)

In this tape, Mr. Hubbell and his wife assert that there was nothing wrong with Mr. Hubbell's business dealings. The excerpt from the Hubbell Master Tape Log omits virtually all of the relevant text.

Hubbell Master Tape Log. In relevant part, the Hubbell Master Tape Log states:

Suzy had talked to Laura. She asked to keep her informed so Suzy can inform Ann Shields if anything happens. They discussed there was never anything wrong in your business dealings.

Actual Tape Transcript. In relevant part, the conversation on the tape reads as follows:

Mr. Hubbell: You're just depressed about it, though.

Mrs. Hubbell: Well, yeah. I, I just feel like, you know, I asked her to please keep me informed because I need to, if something is going to hit the fan, if there is, you know, then I need to be able to talk to Ann Shields and tell her what's happening and --

Mr. Hubbell: Yeah, yeah well, I don't think anything will happen quickly. OK? I really don't. I think it will, uh, unfold slowly, which is good. I'll get home. You know, that's the key.

Mrs. Hubbell: Well, as Laura and I discussed today, there was never anything improper or wrong, and there was nothing wrong in your business dealings.

Mr. Hubbell: No.

Mrs. Hubbell: So even if they took it all the way, it's just going to be ugly and messy, but this isn't a --

Mr. Hubbell: No. There's nothing there.

Mrs. Hubbell: Right.

Mr. Hubbell: But it's just painful. Just painful.

Mrs. Hubbell: Yeah. [Emphasis added.]

Tape 286B, Conversation with John Nields (Nov. 15, 1996)

This tape is a conversation between Mr. Hubbell and his attorney, John Nields. It occurred less than two weeks after the 1996 election. Its primary significance is that it confirms that Mr. Hubbell and Mr. Nields were seeking -- and in fact obtained -- immunity from the Independent Counsel Kenneth Starr, not a Presidential pardon as Mr. Burton has alleged. Despite the significance of this point, the excerpt from the Hubbell Master Tape Log deletes the discussion of immunity from Mr. Starr.

Actual Tape Transcript. None of the discussion of immunity from Mr. Starr is included in the Hubbell Master Tape Log. In relevant part, the taped conversation reads:

Mr. Nields: OK. Well, here's where we are. The Independent Counsel, believe it or not, gave me the order I wanted.

Mr. Hubbell: Good.

Mr. Nields: So it's Friday and we seem to have good news.

Mr. Hubbell: Yeah.

Mr. Nields: Now Webb, they offered -- Laura just walked in. They have offered to -- I'll put you on the speaker --

Mr. Hubbell: Yeah.

Mr. Nields: -- they've offered to say, you know, you don't need to come down now that we've gotten an immunity order that both of us agree on, why don't you just produce the documents. [Emphasis added.]